

**Impact Analysis – Proposed Rule Change
December 22, 2011**

Agency:	DHHS/Division of Child Development & Early Education
Contact:	Dedra Alston (919) 890-7060
Rule Title:	Child Care Requirements
State Impact:	No
Local Impact:	No
Substantial Economic Impact:	No
Small Business Impact:	No
Private:	No

Repeal of Rules

In accordance with the Rules Modification and Improvement Program (RIMP) of 2010, the NC Child Care Commission and the Division of Child Development and Early Education believe that these rules meet the criteria of EO 70 because the Commission has identified them as being unnecessary.

The following rules are proposed for repeal as follows: 10A NCAC 09 .0102(32), .1501, .1502, .1503, .1504, and .1506

Temporary Care Requirements

- .0102 - Definitions
- .1501 - Scope
- .1502 - Medical Examination
- .1503 - Bed, Cots, Mats and Linens
- .1504 - Attendance Records
- .1506 - Outdoor Play Area

Summary of Proposed Regulations

Statutory Authority for rule change: G.S. 110-85; 110-88; 110-91(1), (9); 143B-168.3

Background

Description

As part of the Governor's E.O. 70 on Rules Modification and Improvement Program, agencies were asked to identify existing rules that were unnecessary. The Child Care Commission identified the temporary care requirements as being repetitive and unnecessary since "drop-in" care is covered in the "definitions" rule and in G.S. 110-86(2)(b). The Commission proposes to repeal these rules.

Purpose

.0102(32), .1501-.1504, & .1506 – these rules set the standards for temporary care requirements in child care facilities such as drop-in, seasonal or part-time care. These standards are already defined as "drop-in" care in G.S. 110-86(2)(b) and in rule .0102(9).

Fiscal Impact

There is no estimated impact to local or state agencies, nor to private businesses. The proposed repeal of these rules will not require any additional staff or staff cost to the DCDEE.

APPENDIX

Note: Text shown in bold in rule .0102 is pending RRC approval and legislative review. For purposes of this fiscal note only Item (32) is subject for review.

10A NCAC 09 .0102 DEFINITIONS

The terms and phrases used in this Chapter are defined as follows except when the ~~content~~ context of the rule requires a different meaning. The definitions prescribed in G.S. 110-86 also apply to these Rules.

- (1) "Agency" as used in Section .2200 of this Chapter, means Division of Child ~~Development,~~ **Development and Early Education**, Department of Health and Human Services located at 319 Chapanoke Road, Suite 120, Raleigh, North Carolina 27603.
- (2) "Appellant" means the person or persons who request a contested case hearing.
- (3) "Basic School-Age Care" training (BSAC training) means the training on the elements of quality afterschool care for school-age children, developed by the North Carolina State University Department of 4-H Youth Development and subsequently revised by the North Carolina School-age Quality Improvement Project. Other training shall be approved **as equivalent** if the Division determines that the content of the training offered is substantially equivalent to the BSAC training.
- (4) "Child Care Program" means a single center or home, or a group of centers or homes or both, which are operated by one owner or supervised by a common entity.
- (5) "Child care provider" as defined by G.S. 110-90.2 (a) (2) a. and used in Section .2700 of this Chapter, includes the following employees who have contact with the children in a child care program: facility directors, administrative staff, teachers, teachers' aides, cooks, maintenance personnel, and drivers.
- (6) "Child Development Associate Credential" means the national early childhood credential administered by the Council for Early Childhood Professional Recognition.
- (7) "Developmentally appropriate" means suitable to the chronological age range and developmental characteristics of a specific group of children.
- (8) "Division" means the Division of Child Development **and Early Education** within the Department of Health and Human Services.
- (9) "Drop-in care" means a child care arrangement where children attend on an intermittent, unscheduled basis.
- (10) "Early Childhood Environment Rating Scale - Revised Edition" (Harms, Clifford, and Cryer, - 2005, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of children in the group are two and a half years old through five years old, to achieve three or more points for the program standards of a rated license. This

instrument is incorporated by reference and includes subsequent editions. Individuals wishing to purchase a copy may call Teachers College Press at 1-800-575-6566. The cost of this scale in May 2010 is nineteen dollars and ninety-five cents (\$19.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.

(11) "Experience working with school-aged children" means working with school-age children as an administrator, program coordinator, group leader, assistant group leader, lead teacher, teacher or aide.

~~(11)~~(12) "Family Child Care Environment Rating Scale – Revised Edition" (Harms, Cryer and Clifford, 2007, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by children in family child care homes to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and includes subsequent editions. Individuals wishing to purchase a copy may call Teachers College Press at 1-800-575-6566. The cost of this scale in May 2010 is nineteen dollars and ninety-five cents (\$19.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.

~~(12)~~(13) "First aid kit" is a collection of first aid supplies (such as bandages, tweezers, disposable nonporous gloves, micro shield or face mask, liquid soap, cold pack) for treatment of minor injuries or stabilization of major injuries.

~~(13)~~(14) "Group" means the children assigned to a specific caregiver or caregivers, to meet the staff/child ratios set forth in G.S. 110-91(7) and this Chapter, using space which is identifiable for each group.

~~(14)~~(15) "Health care professional" means:

- (a) a physician licensed in North Carolina;
- (b) a nurse practitioner approved to practice in North Carolina;
- (c) a licensed physician assistant.

~~(15)~~(16) "Household member" means a person who resides in a family home as evidenced by factors ~~including~~, **including** maintaining clothing and personal effects at the household address, receiving mail at the household address, using identification with the household address, or eating and sleeping at the household address on a regular basis.

~~(16)~~(17) "If weather conditions permit" means:

- (a) temperatures that fall within the guidelines developed by the Iowa Department of Public Health and specified on the Child Care Weather Watch chart. These guidelines shall be used when determining appropriate weather conditions for taking children outside for outdoor learning activities and playtime. This chart may be downloaded free of charge from

<http://www.idph.state.ia.us/hcci/common/pdf/weatherwatch.pdf>, and is incorporated by reference and includes subsequent editions and amendments;

- (b) **following the air quality standards as set out in 15A NCAC 18A .2832(d).**
healthy air quality as forecast by the Department of Environment and
Natural Resources' Air Quality Forecasts and Information web page. The Air Quality Color Guide can be found on the Division's web site at <http://xapps.enr.state.nc.us/aq/ForecastCenter> or call 1-888-RU4NCAIR (1-888-784-6224); and
- (c) no active precipitation. Caregivers may choose to go outdoors when there is active precipitation if children have appropriate clothing such as rain boots and rain coats, or if they are under a covered area.

(17)(18) "Infant/Toddler Environment Rating Scale - Revised Edition" (Harms, Cryer, and Clifford, 2003, published by Teachers College Press, New York, NY) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of children in the group are younger than thirty months old, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and includes subsequent editions. Individuals wishing to purchase a copy may call Teachers College Press at 1-800-575-6566. The cost of this scale in May 2010 is nineteen dollars and ninety-five cents (\$19.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.

(18)(19) "ITS-SIDS Training" means the Infant/Toddler Safe Sleep and SIDS Risk Reduction Training developed by the NC Healthy Start Foundation for the Division of Child Development **and Early Education** for caregivers of children ages 12 months and younger.

(19)(20) "Licensee" means the person or entity that is granted permission by the State of North Carolina to operate a child care facility. The owner of a facility is the licensee.

(20)(21) **"North Carolina Early Educator Certification (certification)" is an acknowledgement of an individual's verified level of educational achievement based on a standardized scale. The North Carolina Institute for Child Development Professionals certifies individuals and assigns a certification level on two scales: the Early Care and Education Professional Scale (ECE Scale) in effect as of July 1, 2010 or the School Age Professional Scale (SA Scale) in effect as of May 19, 2010. Each scale reflects the amount of education earned in the content area pertinent to the ages of children served. The ECE Scale is designed for individuals working with or on behalf of children ages birth to five. The SA Scale is designed for individuals**

working with or on behalf of children ages 5 to 12 who are served in school age care settings.

- (20) [(21)] (22) "North Carolina Early Childhood Credential" means the state early childhood credential that is based on completion of **required early childhood** coursework **taken at any NC Community College, and standards found in the North Carolina Early Childhood Instructor Manual (published by the NC Community College System Office).** ~~These standards are incorporated by reference and include subsequent amendments.~~ A copy of the North Carolina Early Childhood Credential requirements is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection or copying at no charge during regular business hours.
- (21) [(22)] (23) "Owner" means any person with a five percent or greater equity interest in a child care facility, ~~however,~~ **however** stockholders of corporations who own child care facilities are not subject to mandatory criminal history checks pursuant to G.S. 110-90.2 and G.S. 110-91(8) unless they are ~~involved in day-to-day operations of the child care facility.~~ **a child care provider.**
- (22) [(23)] (24) "Parent" means a child's parent, legal guardian, or full-time custodian.
- (23) [(24)] (25) "Part-time care" means a child care arrangement where children attend on a regular schedule but less than a full-time basis.
- (24) [(25)] (26) "Passageway" means a hall or corridor.
- (25) [(26)] (27) "Person" means any individual, trust, estate, partnership, corporation, joint stock company, consortium, or any other group, entity, organization, or association.
- (26) [(27)] (28) "Preschooler" or "preschool-age child" means any child who does not fit the definition of school-age child in this Rule.
- (27) [(28)] (29) "School-Age Care Environment Rating Scale" (Harms, Jacobs, and White, 1996, published by Teachers College Press) is the instrument used to evaluate the quality of care received by a group of children in a child care center, when the majority of the children in the group are older than five years, to achieve three or more points for the program standards of a rated license. This instrument is incorporated by reference and includes subsequent editions. Individuals wishing to purchase a copy may call Teachers College Press at 1-800-575-6566. The cost of this scale in - May 2010 is nineteen dollars and ninety-five cents (\$19.95). A copy of this instrument is on file at the Division at the address given in Item (1) of this Rule and is available for public inspection during regular business hours.
- (28) [(29)] (30) "School-age child" means any child who is attending or who has attended, a public or private grade school or kindergarten and meets age requirements as specified in G.S. 115C-364.
- (29) [(30)] (31) "Seasonal Program" means a recreational program as set forth in G.S. 110-86(2)(b).

- (30)(31) (32) "Section" means Division of Child ~~Development.~~ **Development and Early Education.**
- (31)(32) (33) "Substitute" means any person who ~~temporarily~~ assumes the duties of a staff person for a time period not to exceed two consecutive months.
- (32) ~~"Temporary care" means any child care arrangement which provides either drop in care or care on a seasonal or other part time basis and is required to be regulated pursuant to G.S. 110-86.~~
- (33) (34) "Track-Out Program" means any child care provided to school-age children when they are out of school on a year-round school calendar.
- (34) (35) "Volunteer" means a person who works in a child care facility and is not monetarily compensated by the facility.

History Note: Authority G.S. 110-85; 110-88; 143B-168.3;
Eff. January 1, 1986;
Amended Eff. April 1, 1992; October 1, 1991; October 1, 1990; November 1, 1989;
Temporary Amendment Eff. January 1, 1996;
Amended Eff. _____; August 1, 2010; November 1, 2007; May 1, 2006; May 1, 2004;
April 1, 2003; July 1, 2000; April 1, 1999; July 1, 1998; April 1, 1997.

10A NCAC 09 .1501 SCOPE

~~The regulations in this Section apply to centers offering temporary care exclusively and to the temporary care component of any other licensed child care center. All regulations in this Subchapter pertaining to full time child care shall apply to temporary care arrangements, as defined in Rule .0102 of this Subchapter, except as provided in this Section.~~

History Note: Authority G.S. 110-91; 143B-168.3;
Eff. January 1, 1986;
Amended Eff. November 1, ~~1989.~~ 1989;
Repealed Eff. July 1, 2012.

10A NCAC 09 .1502 MEDICAL EXAMINATION

~~A medical examination report shall not be required for any child who receives only drop in care, as defined in Rule .0102 of this Subchapter, or for any school aged child who receives before/after school care only.~~

History Note: Authority G.S. 110-91(1); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. November 1, ~~1989.~~ 1989;
Repealed Eff. July 1, 2012.

10A NCAC 09 .1503 BEDS, COTS, MATS AND LINENS

- ~~(a) Neither a bed, cot, or mat and linen shall be required for any school aged child who receives either before or after school care or both, or seasonal care only.~~
- ~~(b) When drop in care is provided in combination with other types of care, a bed, cot, or mat must be provided for each preschool aged child present during rest time.~~
- ~~(c) Beds, cots, or mats do not have to be assigned to, or labeled for, each individual child.~~
- ~~(d) Each bed, cot, or mat must be sanitized, in a manner approved by the local health department, after being used by one child and before being used by a different child.~~

History Note: Authority G.S. 110-91(1); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. November 1, ~~1989~~; 1989;
Repealed Eff. July 1, 2012.

10A NCAC 09 .1504 ATTENDANCE RECORDS

~~Accurate daily records showing the arrival and departure times of each child receiving drop in care shall be kept. When drop in care is provided in combination with other types of care, the daily attendance records of children in the drop in component shall be maintained separately from the attendance records of children in other components.~~

History Note: Authority G.S. 110-91(9); 143B-168.3;
Eff. January 1, 1986;
Amended Eff. November 1, ~~1989~~; 1989;
Repealed Eff. July 1, 2012.

10A NCAC 09 .1506 OUTDOOR PLAY AREA

~~If a child care center provides part time or drop in care exclusively, the center may choose to provide 35 square feet per child of indoor space in lieu of the outdoor play area as long as no child remains in care for more than a four hour period per day.~~

History Note: Authority G.S. 110-91; 143B-168.3;
Eff. January 1, ~~1986~~; 1986;
Repealed Eff. July 1, 2012.